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Patent No: 7,012,032  
Applicant: Steven R. Cosentino  
Filed: November 14, 2003  
Title: TEAR RESISTANT PEELABLE SEAL FOR CONTAINERS  
TC/A.U.: 1771  
Examiner: Lynda Salvatore  
Confirmation No.: 2366  
Docket No.: DTG-106US

**CITATION OF PRIOR ART UNDER 37 CFR 1.501**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Please enter the following documents in the subject file:

US-A-4 653 640  
US 2004/132363 A1  
WO 2004/045848 A

This art was cited during the examination of a foreign counterpart of the subject issued patent. As explained in the attached International Preliminary Report on Patentability, all claims were found both unanticipated and non obvious over this art.

Respectfully submitted

Costas S. Krikelis, Reg. No. 28,028  
Attorney for Applicants

Date: April 7, 2006

CSK/gdb

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# PATENT COOPERATION TREATY

PCT Nat'l Chpt 2 5/14/06

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

## PCT

To:

Krikelis, Costas S.  
RATNERPRESTIA  
P.O. Box 1596  
Wilmington, Delaware 19899  
ETATS-UNIS D'AMERIQUE

### RECEIVED

MAR 27 2006

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**Ratner Prestia**

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing  
(day/month/year)

21.03.2006

Applicant's or agent's file reference  
DTG-106WO

### IMPORTANT NOTIFICATION

International application No.  
PCT/US2004/038635

International filing date (day/month/year)  
09.11.2004

Priority date (day/month/year)  
14.11.2003

Applicant  
DUPONT TEIJIN FILMS U.S. LIMITED PARTN.et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

#### 4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:



European Patent Office  
D-80298 Munich  
Tel. +49 89 2399 - 0 Tx: 523656 epmu d  
Fax: +49 89 2399 - 4465

Authorized Officer

FENZL, G

Tel. +49 89 2399-8004




# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference DTG-106WO		<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA416
International application No. PCT/US2004/038635		International filing date (day/month/year) 09.11.2004		Priority date (day/month/year) 14.11.2003
International Patent Classification (IPC) or national classification and IPC B32B7/12, B32B27/36, B32B27/12				
Applicant DUPONT TEIJIN FILMS U.S. LIMITED PARTN.et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 16 sheets, as follows:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input checked="" type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand  01.07.2005		Date of completion of this report  21.03.2006		
Name and mailing address of the International preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Kanetakis, I  Telephone No. +49 89 2399-8083		



International application No.  
PCT/US2004/038635

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:

☐ international search (under Rules 12.3 and 23.1(b))

☐ publication of the international application (under Rule 12.4)

☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

1-12 received on 04.07.2005 with letter of 01.07.2005

1-15 received on 04.07.2005 with letter of 01.07.2005

**1/1** **as originally filed**

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/US2004/038635

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	1-15
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

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**Box No. VI Certain documents cited**

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1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

Reference is made to the following documents:

D1: US-A-4 653 640 (AKAO ET AL) 31 March 1987 (1987-03-31)

D2: US 2004/132363 A1 (COSENTINO STEVEN R ET AL) 8 July 2004 (2004-07-08)

D3: WO 2004/045848 A (DUPONT TEIJIN FILMS U.S. LIMITED PARTNERSHIP) 3 June 2004 (2004-06-03)

**1 Novelty (Art. 33(2) PCT)**

Present claims are novel over D1.

D1 claims a packaging material for photosensitive materials comprising a laminate of at least three layers comprising a thermoplastic resin bonded fabric of mesh structure and flexible sheet layers laminated on both sides. The mesh structure corresponds to the reinforcing scrim polymer layer of present claim 1 because it is a porous cross-laminated structure referred to also as "net layer" (col. 2, l. 45/46). One layer of said flexible sheet layers has been applied on said thermoplastic resin bonded fabric of mesh structure with an adhesive layer whose thickness is preferably 15  $\mu\text{m}$  to 200  $\mu\text{m}$  (col. 9, l. 34-38).

The flexible sheet layers to be laminated on both sides of the porous cross-laminated fabric may be PET and these sheets may be oriented (col. 4, l. 55-col. 5, l. 14).

Also the net layer may be formed from the materials now recited in claim 6 such as polyamide or PET (col. 1, l. 54-col. 2, l. 6).

The adhesive layer includes any of a large number of specified materials, none of which is a synthetic condensation polymer such as recited in claim 6.

Hence claim 6 is novel. Remaining claims are dependent upon claim 6, hence novel.

**2 Inventive step (Art.33(3) PCT)**

Problem to be solved by the current application may be considered "to provide a material for use as a sealing lid for containers that exhibits tear resistance and which

may be disposed of when necessary, i.e., it may be recycled" ( p. 4, l. 24-28; p. 5, l. 12-25 of present description).

The problem is solved by choosing for the material of each of the three layers a condensation polymer of similar composition to that of the other layers, so as to allow the entire seal to be recycled, for examples into pellets that can be used as part of the feed for making a polyester film (p. 5, l. 20-25). There is no suggestion in the prior art to choose materials for the respective layers of a seal which would allow for a recyclable seal. Hence, it appears that the subject-matter of claim 6 involves an inventive step.

Remaining claims are dependent on claim 6 and as such also meet the requirements of the PCT with respect to inventive step.

**Re Item VI**

**Certain documents cited**

- 3 Although US2004/0132363 (filing date 14.11.2003, publication date 08.08.2004) (D2) and WO 2004/045848 A (priority date 20.11.2002, filing date 17.11.2003, publication date 03.06.2004) (D3) are not comprised in the state of the art according to Rule 64.1 (b) PCT, these documents disclose films which comprise all technical features of at least the independent claim. It is pointed out that it has not been verified whether the priority claim of the present application is justified.

**Re Item VIII**

**Certain observations on the international application**

- 4 Upon entering the regional phase before the EPO the following should be attended to:
- 4.1 The independent claim 6 should be renumbered as claim 1, and all dependent claims should refer back to a previous claim (see also Rule 6.4(c) PCT).
- 4.2 Numeral 30 on p. 12, l. 7, should be corrected to 32 (see fig 4; the second combined layer), and the sentence on p. 12, l. 8-10 should end.